

1 Your Name: John Doe  
 2 Address: 10 Park Avenue, Apartment 5, Mill Valley,  
 3 CA  
 4 Phone Number: 415-384-1004  
 5 Fax Number: \_\_\_\_\_  
 6 E-mail Address: johndoeroemoe@gmail.com  
 7 Pro Se Plaintiff

④ NP  
 FILED  
 MAY 16 2023

CLERK, U.S. DISTRICT COURT  
 NORTH DISTRICT OF CALIFORNIA

9 UNITED STATES DISTRICT COURT  
 10 NORTHERN DISTRICT OF CALIFORNIA

CV23

2403

12 John Doe (minor), and Jane Doe, John Doe's  
 13 mother, who brings this case on their behalf,

Case Number [l ea ob ank]

DMR

14 Plaintiff,

COMPLAINT

15 vs.

16 Selective Service System,

17 United States,

DEMAND FOR JURY TRIAL

18 Yes ☒ No ☐

19  
 20 Defendant.

23 PARTIES

24 1. Plaintiff. *[Write your name, address, and phone number. Add a page for additional  
 25 plaintiffs.]*

26 Name: John Doe

27 Address: 10 Park Avenue, Apartment 5, Mill Valley, CA

28 Telephone: 415-384-1004

COMPLAINT

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2. Defendants. *[Write each defendant's full name, address, and phone number.]*

Defendant 1:

Name: Selective Service System

Address: P.O. Box 94638, Palatine, IL 60094-4638

Telephone: 847-688-6888

Defendant 2:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Defendant 3:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

### JURISDICTION

*[Usually only two types of cases can be filed in federal court, cases involving "federal questions" and cases involving "diversity of citizenship." Check at least one box.]*

3. My case belongs in federal court

☒ under federal question jurisdiction because it involves a federal law or right.

*[Which federal law or right is involved?]* This action arises under the Fifth Amendment of the United States Constitution.

☐ under diversity jurisdiction because none of the plaintiffs live in the same state as any of the defendants and the amount of damages is more than \$75,000.

COMPLAINT

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### VENUE

*[The counties in this District are: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, Santa Clara, Santa Cruz, San Francisco, San Mateo, or Sonoma. If one of the venue options below applies to your case, this District Court is the correct place to file your lawsuit. Check the box for each venue option that applies.]*

4. Venue is appropriate in this Court because:

- ☐ a substantial part of the events I am suing about happened in this district.
- ☐ a substantial part of the property I am suing about is located in this district.
- ☒ I am suing the U.S. government, federal agency, or federal official in his or her official capacity and I live in this district.
- ☐ at least one defendant is located in this District and any other defendants are located in California.

### INTRADISTRICT ASSIGNMENT

*[This District has three divisions: (1) San Francisco/Oakland (2) San Jose; and (3) Eureka. First write in the county in which the events you are suing about happened, and then match it to the correct division. The San Francisco/Oakland division covers Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, and Sonoma counties. The San Jose division covers Monterey, San Benito, Santa Clara, Santa Cruz counties. The Eureka division covers Del Norte, Humboldt, Lake, Mendocino counties, only if all parties consent to a magistrate judge.]*

5. Because this lawsuit arose in Marin County, it should be assigned to the San Francisco / Oakland Division of this Court.

### STATEMENT OF FACTS

*[Write a short and simple description of the facts of your case. Include basic details such as where the events happened, when things happened and who was involved. Put each fact into a separate, numbered paragraph, starting with paragraph number 6. Use more pages as needed.]*

6. Under the Military Selective Service Act and Presidential Proclamation 4771, Defendants require all male U.S. citizens and male immigrant non-citizens between the ages of 18 and 26 to register with the Selective Service System (SSS) within 30 days of their 18th birthdays. 50 U.S.C. § 453(a).

1 7. Defendants also require disabled males to register, including males with disabilities which  
2 prohibit them from enlisting in the military or which bar them from military service.

3 8. People who are assigned female at birth are exempt from draft registration.

4 9. Registrants must notify the SSS within 10 days of any changes to any of the information  
5 provided on the registration card, including a change of address, until January 1 of the year they turn  
6 21 years of age.

7 10. Failure to comply with the MSSA can subject a male to five years in prison, a \$10,000  
8 fine, and denial of federal employment or student aid. 50 U.S.C. § 462(a).

9 11. Males failing to register with SSS can be fined \$250,000, sentenced to five years in  
10 prison, and be disqualified from a number of federal and state benefits including: jobs, financial aid,  
11 citizenship, and job training.

12 12. Under DoD Instruction 6130.03 Volume 1 Section 6, a diagnosis or verified medical  
13 history of any of the following conditions is disqualifying for military service: history of learning  
14 disorders after the 14th birthday if accompanied by an Individualized Education Program or  
15 comorbid mental disorders (§6.28.b); history of disorders with psychotic features such as  
16 schizophrenic disorders, delusional disorders, or other unspecified psychoses or mood disorders with  
17 psychotic features (§6.28.d); history of suicidality (§6.28.m); history of self-harm that is endorsed,  
18 documented, or otherwise clinically suspected based on scarring (§6.28.n); history of obsessive-  
19 compulsive or related disorder(s) (§6.28.o); history of anxiety disorders if it is recurrent or has  
20 required any inpatient treatment in a hospital or residential facility (§6.28.q); or prior psychiatric  
21 hospitalization for any cause (§6.28.y).

22 13. Obsessive compulsive disorder (OCD) is a lifelong condition with no medically  
23 recognized cure. While treatment can alleviate symptoms, they will always be liable to reappear,  
24 especially in stressful circumstances. While the cause of OCD has yet to be conclusively decided,  
25 ongoing research has linked it to a family history of the disorder, genetic factors, and abnormal brain  
26 structure. Individuals are usually diagnosed early in life, either between eight to twelve, or between  
27 the late teen years and early adulthood, with onset usually being earlier in boys. In many cases the  
28

1 disorder is present long before a formal diagnosis is made, with one study having found the mean  
2 gap time between symptom onset and diagnosis to be 12.78 years.

3 14. OCD sufferers, as a class, are not exempted from draft registration (unless otherwise  
4 already ineligible).

5 15. The Plaintiff has a medical history of severe obsessive compulsive disorder, as well as  
6 anxiety, psychosis, suicidality, and self-harm. These have significantly impacted the Plaintiff's  
7 ability to eat, handle stress, and perform academically, and have at times caused periods of intense  
8 debilitation with regards to everyday functioning.

9 16. The Plaintiff has had an individualized education plan since the age of 15 as a result of  
10 the aforementioned conditions.

11 17. The Plaintiff has been placed on a hospital 5150 psychiatric hold on two occasions for  
12 reasons relating to the aforementioned conditions. On the second occasion, the Plaintiff was further  
13 detained for involuntary inpatient treatment at a psychiatric facility in Sacramento under a 5250  
14 hold.

15 18. The Plaintiff was assigned male at birth and is being forced to register by Defendants  
16 under the MSSA.

## CLAIMS

### First Claim

(Name the law or right violated: The Fifth Amendment of the United States Constitution )

(Name the defendants who violated it: Selective Service System, United States )

[Explain briefly here what the law is, what each defendant did to violate it, and how you were harmed. You do not need to make legal arguments. You can refer back to your statement of facts.]

19. The Selective Service System, in violation of the Fifth Amendment, illegally discriminates against sufferers of obsessive compulsive disorder, as a class, by denying them an exemption from registration when females, a similarly circumstanced class, receive an exemption.

20. Although the Fifth Amendment contains no equal protection clause, it does forbid discrimination on the part of the federal government that is so unjustifiable as to be violative of due process; thus, if classification would be invalid under the equal protection clause of the Fourteenth Amendment, it is also inconsistent with the due process requirement of the Fifth Amendment. *Johnson v Robison* (1974) 415 US 361, 94 S Ct 1160, 39 L Ed 2d 388.

21. The equal protection clause of the Fourteenth Amendment requires that classification be reasonable, not arbitrary, and rest upon some ground of difference having fair and substantial relation to the object of legislation, so that all similarly circumstanced shall be treated alike. *Old Dearborn Distributing Co. v Seagram-Distillers Corp.* (1936) 299 US 183, 81 L Ed 109, 57 S Ct 139, 7 Ohio Ops 146, 106 ALR 1476.

22. As mentioned above, females are exempted from Selective Service registration, while OCD sufferers are not exempted from Selective Service registration (unless otherwise already ineligible for some other reason).

23. In its 1981 decision of *Rostker v. Goldberg*, the Supreme Court established that the overwhelming and predominant object of draft registration is to fill a need for combat troops. It also set the precedent that because “women are excluded from combat service by statute or military policy,” women are “simply not similarly situated” to the general population “for purposes of a draft or registration for a draft,” and that therefore exempting them from Selective Service registration was justified. *Rostker v. Goldberg*, 453 U.S. 57 (1981).

COMPLAINT

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1           24. As mentioned above, OCD sufferers as a class are barred from military service under  
2 DoDI 6130.03 Volume 1 Section 6.28.(o). Since OCD sufferers are also “excluded from combat  
3 service” (as well as all other service) by “statute or military policy,” they would—just like women—  
4 not be “similarly situated” to the general population “for purposes of a draft or registration for a  
5 draft” under the precedent established by Rostker. And with the singular established objective of  
6 draft registration being the raising of combat troops, this leaves no substantial ground of difference  
7 between OCD sufferers and females left to justify Defendants’ dissimilar treatment of the two.  
8 Hence, Defendants’ actions represent a violation of the equal protection guaranteed by the Fifth  
9 Amendment.



**Second Claim**

(Name the law or right violated: The Fifth Amendment of the United States Constitution )

(Name the defendants who violated it: Selective Service System, United States )

25. The Selective Service System, in violation of the Fifth Amendment, illegally discriminates against the Plaintiff, as a class of one, by denying them an exemption from registration when females, a similarly circumstanced class, receive an exemption.

26. A class-of-one case can be proved simply by showing that the Defendant has intentionally treated Plaintiff differently from others similarly situated and had no rational basis for doing so. *Tuffendsam v Dearborn County Bd. of Health* (2004, CA7 Ind) 385 F3d 1124.

27. In *Rostker v Goldberg* the Supreme Court found that “women are simply not similarly situated” to the general population “for purposes of a draft or registration for a draft” specifically because “women are excluded from combat service by statute or military policy”

28. Because of the conditions listed above, the Plaintiff is also be barred from combat service (as well as all military service), under DoDI 6130.03 Volume 1 Section 6.28 Subsections (b), (d), (m), (n), (o), (q), (x), and (y).

27. As such, under the precedent set by *Rostker*, the Plaintiff would be similarly situated to women for purposes of a draft or registration for a draft.

28. Nonetheless, the Defendants unjustly refuse to exempt the Plaintiff from Selective Service registration, violating their equal protection rights under the Fifth Amendment \_\_\_\_.

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**Third Claim**

(Name the law or right violated: The Fifth Amendment of the United States Constitution )

(Name the defendants who violated it: Selective Service System, United States )

29. The Selective Service System, in violation of the Fifth Amendment, illegally discriminates against males, as a class, by denying them an exemption from registration when females, a similarly circumstanced class, receive an exemption.

30. In the 1981 U.S. Supreme Court decision of *Rostker v. Goldberg*, 453 U.S. 57 (1981), a group of men asserted the sex discrimination in the MSSA violated their rights to Equal Protection under the Fifth Amendment to the United States Constitution. In a sharply divided decision with a vigorous dissent written by Justice Thurgood Marshall, the majority of the Justices ruled against the men on the basis that women were excluded from combat, and therefore men and women were not similarly situated for purposes of a draft:

31. “[S]ince women are excluded from combat service by statute or military policy, men and women are simply not similarly situated for purposes of a draft or registration for a draft, and Congress’ decision to authorize the registration of only men *therefore* does not violate the Due Process Clause.” (emphasis added) \_\_\_\_.

32. Furthermore, the court’s decision at that time was predicated on the judgment that, “Congress was entitled, in the exercise of its constitutional powers, to focus on the question of military need, rather than equity” and that Congress had determined “staffing noncombat positions with women during a mobilization would be positively detrimental to the important goal of military flexibility.”

33. Since then, on January 24, 2013, Secretary of Defense Leon E. Panetta and Chairman of the Joint Chiefs of Staff Martin E. Dempsey issued a Memorandum that officially rescinded the 1994 ban on women in combat. \_\_\_\_.

34. Afterwards, in a 2015 Memorandum, “Memorandum from Secretary of Defense to Secretaries of the Military Departments et al. Re: Implementation Guidance for the Full Integration of Women in the Armed Forces” Former Secretary of Defense Ash Carter directed the services to

1 fully integrate women into all aspects of the military. As of 2016 this means there are no positions in  
2 the United States Armed Forces which are closed to women.

3 35. Since these developments have, after 2016, eliminated every statute and military policy  
4 barring women from combat service, women and men would be, under Rostker, “similarly situated  
5 for purposes of a draft or registration for a draft.” This was acknowledged by Senior United States  
6 District Judge Gray H. Miller in his 2019 analysis for *National Coalition for Men v. Selective*  
7 *Service System*, when he said that “men and women are now ‘similarly situated for purposes of a  
8 draft or registration for a draft,’” and that the discriminatory registration requirement is no longer  
9 “substantially related to Congress's objective of raising and supporting armies.”

10 36. Congress’ own thinking on the matter has also changed since 1980. In 2016 Congress  
11 established the National Commission on Military, National, and Public Service expressly to re-  
12 evaluate the question of whether women should register for Selective Service. In its final report,  
13 released March 2020, the commission found that including women would actually benefit the goals  
14 of military mobilization, by “mak[ing] it possible to draw on the talent of a unified Nation in a time  
15 of national emergency,” and also recommended the registration of women ages 18 to 26.

16 37. Since this development has, after 2020, indicated that Congress no longer believes  
17 registering women would impair its core object in draft registration, Defendants’ different treatment  
18 of men and women is also no longer based in an important government interest.

19 38. As a result, the Defendants’ present discriminatory registration regime fails to meet the  
20 standard of review that *Rostker v. Goldberg* establishes, and violates the Due Process Clause of the  
21 Fifth Amendment.

**DEMAND FOR RELIEF**

*[State what you want the Court to do. Depending on your claims, you may ask the Court to award you money or order the defendant to do something or stop doing something. If you are asking for money, you can say how much you are asking for and why you should get that amount, or describe the different kinds of harm caused by the defendant.]*

39. The Defendants should be made to treat OCD sufferers the same way they would treat people assigned female at birth. To this effect, the Plaintiff seeks:

40. Declaratory relief excusing any person who can prove a known, diagnosed history of obsessive compulsive disorder from any obligation to register for Selective Service and corresponding penalties. 41. Injunctive relief enjoining the Selective Service System from registering any person who can prove a known, diagnosed history of obsessive compulsive disorder.

42. Injunctive relief preventing the Selective Service System and all other government agencies from prosecuting any person with a known, diagnosed history of obsessive compulsive disorder for non-registration, from denying any such person government benefits on the basis of non-registration, or from otherwise punishing any such person for non-registration.

43. Injunctive relief ordering Defendants to expunge, where possible, all registrations illegally obtained from persons who can prove a known, diagnosed history of obsessive compulsive disorder, and to expunge all illegally obtained information, including but not limited to ages, addresses, and social security numbers.

44. The Defendants should be made to treat the Plaintiff the same way they would treat people assigned female at birth. To this effect, the Plaintiff seeks:

45. Declaratory relief excusing the Plaintiff from any obligation to register for Selective Service and corresponding penalties.

46. Injunctive relief enjoining the Selective Service System from registering the Plaintiff.

47. Injunctive relief preventing the Selective Service System and all other government agencies from prosecuting the Plaintiff for non-registration, from denying the

1 Plaintiff government benefits on the basis of non-registration, or from otherwise punishing  
2 the Plaintiff for non-registration.

3 48. Injunctive relief ordering Defendants to expunge all registrations illegally  
4 obtained from the Plaintiff, and to expunge all illegally obtained information, including but  
5 not limited to age, address, and social security number.

6 49. The Defendants should be made to treat males the same way they would treat people  
7 assigned female at birth. To this effect, the Plaintiff seeks:

8 50. Declaratory relief excusing any male from any obligation to register for Selective  
9 Service and corresponding penalties.

10 51. Injunctive relief preventing the Selective Service System and all other  
11 government agencies from prosecuting any male for non-registration, from denying any such  
12 person government benefits on the basis of non-registration, or from otherwise punishing any  
13 such person for non-registration.

14 52. Injunctive relief ordering Defendants to expunge all registrations illegally  
15 obtained from males, and to expunge all illegally obtained information, including but not  
16 limited to ages, addresses, and social security numbers.

17 53. Finally, the Plaintiff seeks declaratory relief regarding the respective rights of Plaintiffs  
18 and all defendants as set forth in this Complaint, and any other relief that the Court deems just.

**DEMAND FOR JURY TRIAL**

*[Check this box if you want your case to be decided by a jury, instead of a judge, if allowed.]*

☒ Plaintiff demands a jury trial on all issues.

Respectfully submitted,

Date: 5/15/23

Sign Name:

JOHN DOE

Print Name:

John Doe

Date: 5/15/23

Sign Name:

JANE DOE

Print Name:

Jane Doe